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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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11/17/99 VIDLIN M 3.0-001

PM81/0609

EXAMINER

MILLER, W

ART UNIT

PAPER NUMBER

3628

DATE MAILED 06/09/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.

09/064,973

Applicant(s)

Vidolin et al.

Examiner

William Miller

Group Art Unit

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☒ Responsive to communication(s) filed on Apr 23, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-24 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-24 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. Further, the form and legal phraseology often used in patent claims, such as "invention", should be avoided.

Claim Rejections - 35 U.S.C. § 112

Claims 4, 8-10, 17, and 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrases "and equivalents thereof" and "and the like" render the claims indefinite because the claims include elements not actually disclosed (those encompassed by "and equivalents thereof" and "and the like"), thereby rendering the scope of the claims unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doppenschmitt (U.S. Pat. No. 1,694,703) in view of Knodel (U.S. Pat. No. 4,179,833).

Doppenschmitt discloses a bracelet/necklace comprising: an outer fabric material (2); an inner elastic material (3); and a plurality of closed loop members (1) having indicia thereon (page 2, lines 1-3).

With regards to claims 1 and 13, Doppenschmitt fails to disclose a releasable closure means for opening and closing the bracelet/necklace. Knodel discloses a resilient bracelet having a releasable closure means (12) for opening and closing the bracelet in the form of hook and loop fasteners (Velcro). Therefore, as taught by Knodel, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the bracelet/necklace of Doppenschmitt to include a releasable closure means for opening and closing the bracelet in the form of hook and loop fasteners (Velcro) thereby enhancing securement thereof to the body.

With regards to claims 2, 3, 5, 14-16, and 18, the applicant fails to disclose the specific outer fabric material, inner elastic material, and closed loop material as claimed by the applicant. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the specific outer fabric material, inner elastic material, and closed loop material as claimed by the applicant, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

With regards to claims 6-10 and 19-23, Doppenschmitt fails to disclose the indicia being imprinted or embroidered and of the specific design, symbol, or color as claimed by the applicant. However, it is being viewed as an obvious matter of engineering design choice to modify the

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bracelet/necklace by utilizing an indicia being imprinted or embroidered and of the specific design, symbol, or color as claimed by the applicant, since the applicant has not disclosed that the specific design or type of indicia solves any stated problem or is for any particular purpose and it appears that the bracelet/necklace would perform equally well with any suitable design or type of indicia. Further, with regards to claims 7 and 20, the applicant is reminded that method limitations, namely gluing, sewing, stapling, heat sealing, or laser fusion, carry no patentable weight in an article claim.

With regards to claim 12, although Doppenschmitt, as modified by Knodel, fails to disclose the specific method of using the bracelet as claimed by the applicant, Doppenschmitt, as modified by Knodel, does disclose all the claimed structure of the bracelet and therefore it is being viewed as obvious to one of ordinary skill in the art at the time the invention was made to use the bracelet as claimed by the applicant.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Byers et al., Caverly, Johnson et al., Vollet, Itzkowitz, Stone, Michaels, Calloway Jr. et al., Dowling, Winn, Bonagura, Mariano, and Yoshida disclose similar bracelets and/or necklaces.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Miller whose telephone number is (703) 305-3978.

W.L.M.

June 2, 1999


TERRY LEE MELIUS
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